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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**

10 LYCURGAN, INC. d/b/a ARES
11 ARMOR,

Plaintiff,

12 v.

13 B. TODD JONES, in his official
capacity as Head of the San Diego
14 Bureau of Alcohol, Tobacco,
Firearms and Explosives; and
15 DOES 1-10,

Defendants.

CASE NO. 14-CV-1679 JLS (BGS)

**DECLARATION OF DIMITRIOS A.
KARRAS IN SUPPORT OF PLAINTIFF
LYCURGAN, INC.'S OPPOSITION TO
MOTION TO DISMISS**

Judge: Hon. Janis L. Sammartino
Dept.: 4A
Date: January 7, 2016
Time: 1:30 p.m.

17 **DECLARATION OF DIMITRIOS A. KARRAS**

18 I, Dimitrios A. Karras, declare as follows:

19 1. I am the Chief Executive Officer of Plaintiff Lycurgan, Inc. ("Lycurgan") in
20 the above captioned case, and if called before this court or any other court I could and
21 would testify competently to the following from my own personal knowledge, except as
22 to those matters I state on information and belief, and as to those matters I believe them
23 to be true.

24 2. This declaration is made in support of Lycurgan's Opposition to motion to
25 dismiss.

26 3. ATF's motion to dismiss the complaint in this action represents, at page 8, that
27 ATF believes there was a counting error when the EP80s were originally seized. I know
28 this not to be the case. I was present when the ATF seized Lycurgan's property and

1 closely observed the process. The agents who seized the property were very careful and
2 meticulous in counting the receivers, packing them into boxes, and recording the results
3 of the counts. Because of the care that was taken in the inventorying process, it is not
4 reasonable to conclude that there could have been a counting error in several boxes.

5 4. I have read Mr. Armando Hernandez's "Declaration of Resident Agent in
6 Charge Armando Hernandez" dated August 4, 2015.

7 5. As Mr. Hernandez reports, 18 units of the seized items were missing when
8 ATF purported on December 23, 2014 to return the property it had seized.

9 6. Mr. Hernandez states at paragraph 4 to his declaration:

10 "4. On December 22, 2014, ATF retrieved all the EP80 firearms boxes
11 from storage for transport to the ATF Carlsbad field office to facilitate the
12 return of the seized property to Ares Armor. There was no indication that
13 the storage facility had been breached or that any of the original boxes
14 containing the seized firearms had been opened."

15 7. However, as Mr. Hernandez acknowledges, the property was returned on
16 December 23, 2014, not December 22. On December 23, 2014, Mr. Hernandez, other
17 ATF agents, Scott McMillan (counsel for Lycurgan), and I were present at the ATF
18 office when the boxes were returned. It was apparent to me then that some of the boxes
19 had been tampered with, and that the tape sealing them had at some point been removed.

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~~/s/ Dimitrios A. Karras~~

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